

California Regional Water Quality Control Board
Santa Ana Region

October 26, 2001

ITEM: 15

SUBJECT: Appeal for an Exemption from the Minimum Lot Size Requirements for Subsurface Disposal System Use, Albert Schneider, 7620 Marilyn Drive, Corona, Riverside County

DISCUSSION:

On September 6, 2001, Albert Schneider submitted a letter requesting approval for the use of an already installed second septic tank-subsurface disposal system at 7620 Marilyn Drive, Corona. There are four existing structures on the property. The structures consist of a 3-bedroom house, two guesthouses that were converted from a barn and a garage, and a storage building. Guesthouse No. 1 consists of one bedroom and one-bath. Guesthouse No. 2 consists of two bedrooms and one bath. No kitchen is proposed (or has been constructed) for either guesthouse. The property is approximately 0.53 acres in size. This area of the County is unsewered.

Mr. Schneider purchased the property sometime in 1988. In 1993, Mr. Schneider leased the property, with the option to buy. The lessee converted the barn and garage into a guesthouse and an office building/guesthouse. The storage building was constructed sometime after 1993. There are two existing septic tank-subsurface disposal systems onsite; one serves the 3-bedroom house and the other serves the two guesthouses. The second septic tank system and two guesthouses were plumbed/constructed by the lessee/prospective buyer without obtaining permit(s) from Riverside County Department of Building and Safety and without notifying Mr. Schneider.

Mr. Schneider was in the process of selling and carrying the note for his property. The prospective buyer defaulted and Mr. Schneider had to take possession of his property. He is now confronted with the need to satisfy County requirements. In part, the County required that Mr. Schneider obtain Regional Board approval of the use of the second subsurface disposal system.

On October 13, 1989, the Regional Board amended the Basin Plan to include minimum lot size requirements for new developments using on-site septic tank-subsurface disposal systems. This Basin Plan amendment required new developments proposing to use septic tank systems to have a minimum of one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwater of the Region. The minimum lot size requirements state that an existing development on land zoned single-family residential (such as Mr. Schneider's) will be considered a new development if the addition of any freestanding structures that will result in additional flows to the septic system is proposed. The guesthouses are freestanding structures, and a second septic system was installed to accommodate the increased wastewater flows. As such, the development on Mr. Schneider's property is a new development for the purposes of the minimum lot size requirements. Since the lot is just over one-half acre in size, the addition of the second septic tank system created a septic tank density in violation of the minimum lot size criteria of one per half acre. Board staff advised Mr. Schneider that because the development does not comply with the minimum lot size requirements, we could not approve the use of the

second septic system for the two guesthouses. Mr. Schneider is appealing staff's denial of an exemption from the minimum lot size requirements.

The Board's minimum lot size requirements stipulate that additional installations (rooms/bathroom) to single family residential developments are exempt from the minimum lot size requirements if the existing septic system could accommodate the additional wastewater flows. Without prior discussion with Board staff, the County planning staff apparently advised Mr. Schneider that if he constructed a breezeway to connect the main house with the unpermitted guesthouses, then the guesthouses would be considered part of the existing dwelling, thereby exempting Mr. Schneider's property from the minimum lot size requirements. (However, Mr. Schneider has not constructed the breezeway.) The County's determination that the construction of a breezeway connecting the guesthouses to the existing dwelling would render the guesthouses additions to that dwelling, rather than free-standing structures, is simply contrary to the intent of the minimum lot size requirements. In formulating these minimum lot size requirements, the Board clearly wanted to prevent the addition of structures that had the potential to result in substantial increases in wastewater flows. Mr. Schneider's guesthouses obviously have that potential. Equally important, the minimum lot size exemption criteria do not contemplate the addition of a second septic tank system to accommodate new wastewater flows, even from additions to existing dwellings. The development on Mr. Schneider's property simply does not comply with the letter or intent of the minimum lot size requirements. (Clearly, this is a matter that requires substantive discussion with the County.)

In addition to the requirement that Mr. Schneider obtain Regional Board approval, the County requested that Mr. Schneider document that there is sufficient area on his property for 100% expansion of the septic system leach fields. In response, Mr. Schneider hired a soils engineer, who reported that 100 % expansion would require that the circular driveway in front of the 3-bedroom house be removed and modified to provide ingress/egress without driving or parking over the leach field. Further, the County advised Board staff that Mr. Schneider would be required to eliminate one of the guesthouses.

Board staff has advised Mr. Schneider of an option identified in the Board's minimum lot size exemption criteria, which allows project proponents to implement an acceptable offset project. Mr. Schneider could continue the use of 2 septic systems on his property if he connected another septic system (that would not otherwise be required to be connected to the sewer) to the sewer.

RECOMMENDATION:

Deny Mr. Schneider's request for an exemption from the minimum lot size requirements.

Comments were solicited from the following:

State Water Resources Control Board, Office of the Chief Counsel – Jorge Leon
Riverside County Department of Environmental Health – Sam Martinez/Greg Dellenbach
Riverside County Department of Building and Safety – Tom Ingram
Riverside County Department of Planning – Mark Balys
AM/PAC and Associates – Stan Schupp/David E. Ballinger